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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/821,195	03/29/2001	Timothy C. Loose	47079-00086	4522

30223 7590 12/16/2003

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EXAMINER	
WHITE, CARMEN D	

ART UNIT	PAPER NUMBER
3714	12

DATE MAILED: 12/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/821,195	LOOSE ET AL.	
	Examiner	Art Unit	
	Carmen D. White	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *29 September 2003*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-8* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-8* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

13)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

a) ☐ The translation of the foreign language provisional application has been received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over ***Heidel*** et al (5,342,047) in view of ***Bruzzese*** (EP 0 789 338).

Regarding claims 1-2 and 6-8, Heidel teaches a gaming machine controlled by a processor in response to a wager, said gaming machine comprising a display including a video portion (Fig. 1, #12) and a non-video portion (Fig. 1, #34); and a touch screen overlapping the video portion; said video portion including player-selectable first indicia selectable via said touch screen and the non-video portion including permanent player-selectable second indicia selectable via the touch screen (abstract; Fig. 1). While Heidel teaches a gaming machine with video and non-video portions and a touch screen overlapping the video portion of the machine, Heidel lacks disclosing a touch screen overlapping the non-video portion of the machine. In an analogous gaming machine, Bruzzese teaches the bonding of a touch panel to an existing non-video {mechanical reel portion} of a gaming machine (abstract; col. 1,ines 47-58). It would have been obvious to a person of ordinary skill in the art at the time of the invention to employ the touch screen technology of Bruzzese over the non-video {electromechanical

buttons} of Heidel in order to make the buttons easier to operate by making them touch sensitive. This would allow for quicker input by the players.

Regarding claims 3-5, Heidel and Bruzzese teach all the limitations of the claims as discussed above. Heidel further teaches the use of lights to illuminate the second indicia buttons (col. 3, lines 55-67). Heidel lacks the explicit disclosure of artwork on the non-video portion. Bruzzese teaches the feature of artwork on a non-video portion of a gaming machine (Fig. 1). It would have been obvious to a person of ordinary skill in the art at the time of the invention to include this feature of artwork, taught by Burzzese, in Heidel in order to make the gaming machine more aesthetically pleasing; thereby, attracting more players and increasing gaming profits.

Examiner's Response to Applicant's Remarks

Applicant argues that the *electromechanical game control buttons are required by Heidel's invention and to eliminate them would render Heidel unsatisfactory for its intended purposes.* The examiner disagrees with Applicant's assertion that the control buttons are required by Heidel. Heidel teaches that the electromechanical buttons **or** the touch screen can be used for input (col. 1, line 55). Therefore, Heidel is functionally capable of performing its intended purposes with or without the electromechanical buttons. Applicant further argues that the combination/modification of Heidel with Bruzzese changes Heidel's principle of operation. The examiner disagrees with this argument made by applicant. As mentioned above, Heidel does not need electromechanical input in order to operate (i.e. receive player controlled inputs for operating the gaming device). Further, since Heidel teaches the use of only touch

screen input, if desired, it is clear that Heidel can operate with or without the buttons. Applicant argues that the references teach away from each other and that there is no motivation or suggestion to combine. Again, the examiner disagrees with this argument made by Applicant. Heidel and Bruzzese are both in the video gaming machine art and both teach the use of touch screen technology to modify existing slot machine features in order to enhance player input into the gaming machine. Therefore, the examiner has maintained the prior art rejection, above.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

USPTO Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carmen D. White whose telephone number is 703-308-

5275. The examiner can normally be reached on Monday through Friday, 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on 703-308-1806. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1078.

cdw

S. THOMAS HUGHES
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700